



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

BOB CORBIN  
~~XXXXXXXXXXXX~~  
ATTORNEY GENERAL

February 8, 1979

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Mr. Bill Blackledge  
Administrator  
Board of Pesticide Control  
Suite 103, 1624 West Adams  
Phoenix, Arizona 85007

Re: I79-39 (R77-399)

Dear Mr. Blackledge:

You have requested that we render an opinion regarding the following questions:

1. Is the authority of the Board of Pesticide Control to regulate the sales and uses of pesticides restricted to sales and uses related only to agriculture?
2. Is it the responsibility of the Board of Pesticide Control, under the provisions of existing statutes, to promulgate and adopt regulations which apply to pesticide sales to and use by homeowners, municipal governments and other entities not regulated by the Structural Pest Control Board?

We have concluded that the authority of the Board of Pesticide Control to regulate the sales and uses of pesticides is not limited to sales and uses related to agriculture and, further, that the responsibility of the Board of Pesticide Control to promulgate and adopt regulations applies to pesticide sales to - and use by - homeowners, municipal governments and other entities not otherwise regulated by the Structural Pest Control Board.

The Board of Pesticide Control, established by A.R.S. § 3-372, has statutory authority to regulate the sale and use of pesticides in several ways. A.R.S. § 3-372.01.A requires the Board to "make and enforce all rules, regulations and orders necessary to carry out the purposes of this article in order to regulate the sale and use of pesticides. . . ."

The Board is authorized by A.R.S. § 3-376.B to regulate through a permit process the sale of pesticides for any purpose:

It is unlawful for a seller of pesticides to sell, dispense, deliver or have delivered any pesticides in quantities as determined by the board without first procuring from the board a permit for each calendar year or portion thereof.

. . .

The Board also is authorized to regulate the use of pesticides as they are used in connection with agriculture through the permitting process. Anyone using pesticides to grow or produce commercially any agricultural commodity must obtain a permit from the Board. A.R.S. § 3-376. A permit for each calendar year also is required for "any application of pesticides for hire or any application of pesticides by aircraft whether or not for hire." A.R.S. §§ 3-371.4 and 3-377. Any aircraft or ground equipment used in such application of pesticides must also be licensed by the Board. A.R.S. § 3-379. Statutory prerequisites concerning a permit applicant's financial responsibility and knowledge of pesticides are established by A.R.S. §§ 3-378 and 3-379.

Although the authority of the Board of Pesticide Control to regulate application of pesticides through the permit process is not restricted to agricultural uses of pesticides, certain statutory exemptions to the scope of the Board's licensing authority curtail its ability to regulate, through the permit process, non-agricultural pesticide uses. A.R.S. § 3-381.2 provides that a license is not required of persons "applying pesticides in building or for structural pest control purposes," nor is a license required of persons applying weed control pesticides "along railroad rights of way or along highways, canals, laterals, ditches, utility easements and rights of way" or applying "structural materials" or performing "household or industrial sanitation services." A.R.S. § 3-381.6.

In addition to its authority to control any sales and certain uses of pesticides through a licensing process, the Board of Pesticide Control has extensive authority to supervise all uses of pesticides by the promulgation of rules, regulations or orders. It may ". . . regulate or limit the use of any pesticide, including but not limited to restricting the use of such pesticide completely within a designated area. . . . A.R.S. § 3-384. Thus the Board is authorized, pursuant to A.R.S. § 3-384, to regulate even those use of pesticides for which a license is not required.

Mr. Bill Blackledge  
February 8, 1979  
Page 3

A review of the statutory scheme reveals that the authority of the Board of Pesticide Control is pervasive. The authority of the Board to regulate the sales and uses of pesticides is not restricted to agricultural uses only. Further, the Board is required to promulgate and adopt rules and regulations applying to both the sale and use of pesticides, including those sales to or uses by persons or entities not required to be licensed under the article.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Corbin".

BOB CORBIN  
Attorney General

BC:mm